

Attorney Docket No. P66034US0  
Application No. 09/674,277

Remarks/Arguments:

Applicants wish to thank Primary Examiner Patricia A. Duffy, for the courteous consideration rendered their undersigned representative during a telephone interview on or about February 24, 2009. Applicants' representative pointed out that broadening the scope of the excluded polynucleotides (from "237-270" to "237-570"), in the after final amendment, effectively narrowed the scope of claim 20. In other words, the examined nucleotide sequence—which excludes polynucleotides "237-270"—is broader than amended nucleotide sequence—which excludes polynucleotides "237-570."

Also during the interview, Applicants' representative explained they were considering amending claim 20 to recite

wherein each of said fragment and said derived sequence comprises a nucleotide chain of ~~at least~~ 30 consecutive nucleotides of SEQ ID NO: 2,

and, thereby, overcome the rejection of claim 20 under 35 USC 112, 1<sup>st</sup> ¶.

In view of the foregoing, upon applicants submitting (another) after final amendment, which deletes "at least" from claim 20 as posited above, and which repeats the change from "237-270" to "237-570," discussed above, Examiner Duffy kindly agreed to reconsider whether to enter the after final change from "237-270" to "237-570." The instant after final amendment effects the aforesaid changes to the claims.

Claims 20, 21, 24, 25, 30 and 37 are pending.

Claims 1-19, 22-23, and 31-61 are canceled, without prejudice or disclaimer.

Claims 21, 24, 25, 30 and 37 are allowed.

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Claim 20 was rejected under 35 USC 112, 1<sup>st</sup> ¶, as allegedly failing to comply with the written description requirement, i.e., for reciting "at least" in the limitation

wherein each of said fragment and said derived sequence comprises a nucleotide chain of at least 30 consecutive nucleotides of SEQ ID NO: 2.

Claim 20 is amended hereby by rewriting the limitation

wherein each of said fragment and said derived sequence comprises a nucleotide chain of **at least** 30 consecutive nucleotides of SEQ ID NO: 2,

which renders the rejection moot. Withdrawal of the rejection under §112, ¶1, appears to be in order.

As indicated above, claim 20 is also amended to recite (as previously presented)

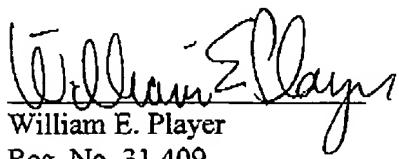
excluding a nucleotide chain of at least 30 nucleotides within or overlapping the region defined by nucleotides ~~237-570~~ 237-570 of SEQ ID NO: 2.

Pursuant to the Advisory Action the previously presented amendment was not entered as alleging raising new issues requiring further search and consideration. For the reasons set forth above, as explained during the interview, the examiner is asked reconsider entry of the amendment after final rejection.

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Favorable action is requested.

Respectfully submitted,

  
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